

Big Darby Accord Advisory Panel

Minutes

MINUTES OF THE BIG DARBY ACCORD ADVISORY PANEL

Tuesday, January 9, 2018

The Big Darby Accord Panel convened in Meeting Room B on the 25th floor of the Franklin County Courthouse, 373 South High Street, Columbus, Ohio, 43215, on Tuesday, Tuesday November 14, 2018.

Present were:

Ashley Hoyer, Chairperson
Vincent Tremante, Vice Chairperson
Steve Gordon
Sheree Gossett-Johnson
Margaret Malone
John Tetzloff
John Bryner

Franklin County Development Department members:

Matt Brown, Planning Administrator

City of Columbus Planning Division members:

Festus Manly-Spain, Senior Planner
Mike Schadek, Mayors Office

Chairperson Hoyer opened the meeting.

The first order of business was the approval of the minutes from the November 14th, 2017 meeting. Ms. Gossett-Johnson proposed a correction. The minutes state that after reading the Accord, it doesn't state that open space is natural, I believe said, "it does."

Dr. Gordon made a motion to approve. Seconded by Ms. Gossett-Johnson. The motion was approved by a five-to-zero vote.

NEW BUSINESS:

The next order of business is the election of Chair and Vice Chair.

Mr. Brown opened the floor for nominations for Chair. Chairperson Hoyer volunteered to be Chair.

Dr. Gordon motioned to nominate Mr. Hoyer for Chair. Seconded by Mr. Tremante.

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The motion was approved by a five-to-zero vote.

Mr. Brown opened the floor for nominations for Vice-Chair. Chairperson Hoye nominated Mr. Tremante. Hearing no other nominations Mr. Brown took vote. All those in favor of Mr. Tremante to continue as Vice Chair, please signify by saying "Aye. The motion carries.

The next order is discussion and adoption of bylaws. Mr. Manly Spain stated that nothing has changed from the bylaws previously adopted. Mr. Brown added that stated that there are no changes proposed in the bylaws, however, he would like to discuss the idea of not necessarily holding a January meeting, if the Panel would like to amend the bylaws such that the election of Chair and Vice Chair occurs at the first meeting of the year where there's new business to be considered.

Chairperson Hoye stated that we decided to do January was there were some discussions that we would like to have an informal discussion on some things that we've talked about. I'm okay with keeping January, but I don't know if that's something that you guys want to talk about or discuss.

Mr. Brown stated the he knows one of the concerns was also that it would be possible to go a full year or more than a year without actually having a Panel meeting, so at least it made sure that we're touching base at least on a yearly basis. But we didn't have any recommended changes.

Mr. Tremante moved to adopt the bylaws for the Big Darby Accord Advisory Panel. Seconded by Ms. Gossett-Johnson. The motion was approved by a five-to-zero vote.

Next order of business is to reappoint member at-large. Ms. Gossett-Johnson motion for the reappointment of Mr. Gordon. Seconded by Mr. Tremante.

The motion was approved by a five-to-zero vote.

Mr. Tetzloff stated that you've seen the papers about mussel die-off in the Darby. We're estimating anywhere from a third to a half of the fauna died last year, last fall, and that the endangered species were hit harder than other species. No one was ever able to determine what the cause was. So we're in the process -- "we," conservation groups, are in the process of trying to work with the EPA to get that wrapped into their current TMDL study that's yet to be written. The frustrating thing is nobody knows what caused it for sure. The response to the die-off wasn't very quick. So the other things we'd like to see come out of this is a better response

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protocol, so if it happens again, people are getting out there, getting the water samples, getting tissue samples, so we have a better shot at figuring out what might be going on.

Mr. Tremante asked if they are still waiting on tissue samples.

Mr. Tetzloff stated that tissue samples didn't show anything. The water samples were taken 21 days after the event, so nothing there either.

Chairperson Hoye thanked Mr. Tetzloff for the presentation.

Mr. Tetzloff also stated that last month, we kind of tied ourselves into knots trying to talk about what open space should consist of. So I went back and reviewed everything, and I think there are still some loopholes in here that, basically, my opinion is this plan, the Darby Accord, doesn't really totally nail that down, but what it does do is points to the fact that this is a document that has certain guidelines in it, and it also talks about the need to follow other regulatory guidelines such as EPA guidelines. I hope this makes sense, but I'll give a quick history lesson because it's been a long time. The Darby Accord came out of a group called The Environmental Sensitive -- or The External Advisory Group to the Environmentally Sensitive Development Area. This was back in the late '90s, early 2000s, and, basically, the State reviewed its 208 plan for the area. A 208 plan is a plan that designates who is in charge of what and what types of rules are in place for provision of sewer and water.

Ms. Gossett-Johnson interjected to say that Hilliard's plan does not supersede it. You cannot be less stringent than the State. So if they are less stringent, or they have zoning that's inappropriate, and the EPA is looking into it, they will then bring that up as this PTI.

Mr. Tetzloff added that in fairness to them, they may also take issue with whether or not a particular subdivision, kind of, needs to be in conservation development, and that was sort of laid out in the Accord Plan. But within the open space requirements in Franklin County, there are permitted uses. Permitted uses are passive recreation, removal of the damaged or diseased trees, revegetation or reforestation, new arterial streets provided if the disturbances are minimized and mitigated, and disturbances necessary to accomplish the permitted uses described in this criteria, whatever that means. Then there are conditional uses which includes stream bank stabilization, erosion control measures, paved trails, and Stormwater Best Practices. Finally, there are prohibited uses which include construction of structures, dredging and filling, motorized vehicles, disturbances of natural vegetation, parking lots, and application of spraying of wastewater treatment plant residuals, although I think there's an out on that one.

Ms. Gossett-Johnson added that there's some provision on that.

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Mr. Tetzloff added that he didn't make up this definition of open space, and I see attached to this is the open space definition -- who put that in there?

Mr. Brown stated that since this open space question came up, I reached out to the Big Darby Accord Working Group, which are representatives of the department jurisdictions and Tracy Hatmaker found this document that you see here. The Big Darby Accord Working Group had asked that the Open Space Advisory Council put together a definition for open space. OSAC did that, sent it back to the Big Darby Accord Working Group, and the Big Darby Accord Working Group made the slight modifications you see in the definition and then adopted it for purposes of guiding their understanding of what natural open space was in the context of the Darby.

Mr. Tetzloff stated that he remembered this sometime ago and was never clear to what use they intended to put it.

Mr. Brown added that his assumption would be that the intention was for this definition to be utilized by all of the various Big Darby Groups, so Big Darby Accord Working Group, the Open Space Advisory Council and the Big Darby Accord Advisory Panel.

Mr. Tetzloff added that Tony would know better than -- Anthony -- because he was on the committee that did this. The question I always had and never heard an answer to was: What are we expecting developers to include on their property? Conservation open space or what are all of these other open spaces? What's required by it Accord itself? There's really two definitions here. There's conservation open space and other types of open space.

Mr. Brown stated that within the conservation development, the recommended land use area, it recommends 50 percent open space. I don't have my plan with me to really dig into this. But were they intending that to be natural open space? My professional interpretation of that would be, yes, that was intended to be natural open space; 50 percent natural open space. If they wanted to include additional open space or other type of open space within the development, they are more than welcome to do that. But you can't say we have 75 percent open space when, you know, 25 percent of the total area is for these other types of open space and 50 percent is the natural open space.

Chairperson Hoyer read from the document "Development plans and proposals should demonstrate the protection of resources to the maximum extent possible. The location of the open space on any development site, such as conservation development that sets aside 50 percent of the site should be dedicated to the location of environmentally sensitive features within the tiers and the topography and features of the land."

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Mr. Brown added that the question becomes most of the land that -- a lot of the land that's developing doesn't have very much tiered areas associated, which is good. The development is occurring away from your most environmentally sensitive areas. But it means that you're going to be converting from another use, frequently, agriculture, some type of open space, and now, whether or not it's appropriate for that conversion to be to your more active open space.

Chairperson Hoyer stated that Mr. Brown was correct because grass seed turf is a great erosion control for banks and stuff like that, you know. So I think if we maintain that, that's an open space.

Mr. Tetzloff added that it wasn't according to this definition.

Mr. Brown stated not according to this definition. But if they replanted it back as prairie grass.

Ms. Gossett-Johnson added this was the intent. She added that my supervisor at the time, Erin Sherer, was on this committee, and she just loved to grab help. And the intent truly was to have the 50 percent open natural space. And yes, it does have to be maintained because if you don't maintain it -- but that kind of maintenance is a completely different avenue than the grasses that you would grow, the grasses you grow for your lawn aren't going to have the same root structure. It's a completely different animal. I agree with you. It will still have to be maintained. You don't have to spray it, but, I mean, you would have to trim it. It would be minimal. But the thought was you would have, you know, the prairie grass, the flowers, like that park on Cosgray. I can't remember, Heritage, I believe is the name of it. They have all of that open space. That was the intent, not necessarily just that, but I mean, manicured lawns was not envisioned as part of open space.

Chairperson Hoyer added that some has to be.

Mr. Gosset-Johnson replied no. If you have 50 percent open space, then the rest of it can be manicured lawns. It just means you have a larger area than that last one was proposing, that's all.

Chairperson Hoyer asked if mowed lawns are prohibited.

Mr. Gosset-Johnson replied no.

Mr. Tetzloff added that the argument is whether or not that counts as open space.

Mr. Brown stated from a developer's perspective, they are going to be looking at their open yard areas and saying, no, that is open space. Every zoning code that exists calls that -- if it

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doesn't have a structure on it that would be considered open space from a general zoning standpoint. The Darby is unique in its discussion about open space.

Mr. Tremante asked if conservation natural open space, the definition that was developed by the Open Space Advisory Committee, was adopted as part of the final Darby document.

Mr. Brown answered that the definition is not in the --not within the Watershed Master Plan, which is why it needed to be developed because this question kept coming up through discussions of various -- the Panel, the Open Space Advisory Council themselves, the Big Darby Accord Working Group; everyone is trying to determine what the intentions of the plan really were. And so this definition was developed by the Open Space Advisory Council with the slight amendments you see identified here, the track changes. Those changes were made by the Big Darby Accord Working Group, and this amended definition was then adopted by the Big Darby Accord Working Group.

Mr. Tremante asked if the Panel can adopt the definition moving forward.

Mr. Brown stated that I don't think it's necessary because the Big Darby Accord Working Group adopted it. I don't think it hurts anything if the Panel adopted it.

Mr. Tetzloff stated that It's actually kind of in here. On Page 1 of 4, there's a section called "Protection of Environmentally Sensitive Areas." It talks about environmentally sensitive areas, "These elements contribute to the Darby's unique ecosystem and should be protected and preserved according to the mission statement, Accord recommendations, and regulatory requirements, such as the Ohio EPA's 2082 plan." So there was knowledge at the time by the people involved with the Accord plan, and particularly the consultants who wrote it, that this was coming directly on the heels of the 208 plan. That's why that's in there, and it was understood that this would build on that.

Mr. Tremante added that would like is to have something that, when somebody is looking at this plan, they have something consistent that they know, all right. If I'm going to try and say this mowed area is open space, we gave you this, and, you know, no, we're not going to approve it. I feel like we didn't have that at our last meeting.

Mr. Gosset-Johnson stated that she agrees.

Mr. Brown added that it would be a good idea to adopt the language.

Chairperson Hoyer asked if the Panel liked that definition.

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Mr. Tetzloff stated that it is the definition, so I think we better adopt it the way they parsed it.

Mr. Brown called for a vote on the question on the adoption of a motion made by Mr. Tremante, seconded by Mr. Gordon, to adopt the definition of conservation natural open space as adopted by the Big Darby Accord Working Group on August 18th, 2010. All those in favor, significant by saying, "Aye." Motion carries.

There being no further new business to come before the Big Darby Accord Advisory Panel, Chairman Hoyer adjourned the meeting.